



## ARGUMENT

1. A Bankruptcy proceeding may involve both core and non-core issues. *Halper v. Halper*, 164 F.3d 830, 838 (3d Cir. 1999) (case presented a mixture of core and non-core claims).

2. A “proceeding is core under section 157 if it invokes a substantive right provided by title 11 or if it is a proceeding that, by its nature, could arise only in the context of a bankruptcy case.” *In re Marcus Hook Development Park, Inc.*, 943 F.2d 261, 267 (3d Cir. 1991) (quotations omitted).

3. “If the proceeding does not invoke a substantive right created by federal bankruptcy law and is one that could exist outside of bankruptcy it is not a core proceeding.” *Torkelsen v. Maggio (In re Guild and Gallery Plus, Inc.)*, 72 F.3d 1171, 1178 (3d Cir. 1996) (quotations omitted).

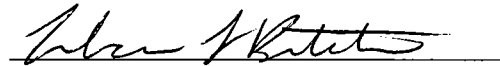
4. CSFB believes that the proceeding at issue involves both core and non-core issues. In order to grant CSFB permission to initiate a suit on behalf of the Debtors’ estates, the Court must determine that the Debtors have unjustifiably refused to pursue their own cause of action and that CSFB has alleged colorable claims. *Investors Ltd. v. Donald Kingsboroughia (In re Yes! Entertainment Corp.)*, 316 B.R. 141, 145 (D. Del. 2004). Whether the Debtors have unjustifiably refused to initiate suit upon demand is a core issue because it could only arise in the context of a bankruptcy case. However, the determination of whether CSFB has alleged colorable claims is based on substantive state law, and is thus non-core.

**CONCLUSION**

CSFB respectfully requests that this Court determine that the proceeding for which withdrawal of reference is sought involves both core and non-core issues, in the proposed form of order attached hereto as Exhibit A.

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